

U. S. Held Back Evidence, Says Jerry O'Leary

Editor of "Bull" Acts as His Own Attorney and Charges Unfair Tactics Declares His Americanism

Denies He Knew Contributor of \$5,000 to Truth Society Was a German

Jeremiah A. O'Leary assumed personal command of his own defense yesterday before Judge A. N. Hand in the Federal District Court, where he is on trial charged with conspiracy to obstruct the operation of the selective service act. He attacked and demanded the immediate punishment of newspaper reporters, whom he accused of writing inaccurate accounts of the trial, and bitterly assailed the government for withholding certain documents from him which he described as necessary to his defense.

Mr. O'Leary took up the cross-examination of Arthur Wiener, a witness for the prosecution, who testified on Tuesday he had turned over \$5,000 given to him by Dr. Heinrich Albert, the German spy and propaganda paymaster, to the American Truth Society, of which O'Leary was president.

During the examination of Wiener, O'Leary loudly proclaimed his "Americanism" and launched into a savage attack on Earl Barnes, Assistant United States Attorney, and other government employees who have taken part in the prosecution. He charged Mr. Barnes with withholding letters of his seized by agents of the Department of Justice. The defendant explained that by one of these letters he could prove that at the time Dr. Albert contributed the \$5,000 to the American Truth Society, he did not know just who the German was.

Contempt Rule Demanded
O'Leary asked that the government prosecutor be held in contempt and that the interrogation of the witness be suspended until the missing document was produced.

"It is then the duty of the court," Jeremiah O'Leary asserted, "to commit for contempt anyone who has disobeyed the order of this court. Justice cannot be done under these conditions."

The District Attorney, said Judge Hand, "will do all he can to locate and produce the papers. You may proceed with your cross-examination."

Jeremiah O'Leary obediently resumed his cross-examination of Wiener, seeking to show that the chief witness of the American Truth Society was the United States and not Germany. The witness acknowledged that it was his own effort which he had introduced to Jeremiah O'Leary. He was born in Germany, he said, and he testified that at the dinner of the Hofbrauhaus, his question had been asked whether America was not interested in kings or kaisers.

Admits U. S. Warned Him
The Department of Justice, he continued, had warned him against intimacy with Jeremiah O'Leary and he had told officials of that department that O'Leary did not know the source of the \$5,000, which he received for the American Truth Society. The Federal officials, he said, had always treated him courteously.

H. Snowden Marshall interrupted the cross-examination at this point with an objection, getting the immediate resort from the cross-examiner: "If you send me to jail for 100 years I have got some rights in this court."

The complaint about the missing check book, letters and diary was resumed at this point by O'Leary, who said that he couldn't go on as he was with the cross-examination, and he had tried to do so. However, he had several employees of the Department of Justice who were in court rise to be identified by Wiener.

On redirect examination Mr. Osborne developed the fact that Wiener did not think he had a copy of a letter from him to O'Leary concerning which he had testified previously. O'Leary had been insistent upon the production of this letter, and he had testified that when he first met Wiener he knew nothing whatever of Albert.

Karl George Frank, a doctor of philosophy, a member of the American Truth Society and a native German who was naturalized in 1915, was the next witness called by the prosecution. It was at the Hofbrauhaus meeting, he said, and he said that O'Leary's address, which he did not know, was given to him by Wayne Morris, who said, had never been questioned by the authorities.

Marguerite Kurt Kelly, who was employed by the American Truth Society as a stenographer in 1916, was the only other witness of the day. Letters which Mr. Osborne asked her to produce, she said, were given to her by her mother, who said she could not remember whether she had written them herself.

Mr. Osborne showed her a mailing card bearing a poem entitled "The Call of the Blood," signed by Wayne Morris, and asked whether Wayne Morris was Jeremiah O'Leary's pseudonym. She did not know, she said.

Calls Poem Un-American.
The prosecution holds that the tenor of the verse on the card is un-American and was seeking to show that Jeremiah O'Leary was its author and had sent it through the mails. It was unsuccessful in its attempt to do so through Mrs. Kelly. More documents and speeches by Jeremiah O'Leary were read to the jury, Arthur O'Leary insisting that not a word in any of them be slighted.

FLIERS WHO WON WAR CROSSES



First Lieutenant Byron T. Burt, Jr., of 108 West Seventy-third Street, shown in the upper left, an observer in the balloon section, was cited for bravery, as were also First Lieutenant Percy Rivington Pyno, Jr., of 680 Madison Avenue, shown on the right, and Second Lieutenant Sigbert A. G. Norris, of 128 East Sixty-sixth Street, on the lower left of the picture.

list of subscribers and members of the American Truth Society, which contained many German names, and the witness was turned over to the defense for examination. Colonel Felder asked that O'Leary be allowed to examine Mrs. Kelly, and the request was granted.

In answer to his questions the witness told of the workings of the American Truth Society. She said the pamphlets and circulars were sent all over the country and most of the activities of the organization were confined to holding meetings. Mrs. Kelly said she had seen nothing of the money coming in and that she did not even look at the face of the checks when he signed them.

Before the former stenographer left the stand she said, in answer to a question, she never had entered the names of members on the books unless they signed application cards saying that they were American citizens.

'Wet' Bill Asks for 4 Per Cent Beer, 10 Per Cent Wine
The bill defines an intoxicating beverage as "any beer or ale containing not more than 4 per cent alcohol and any wine containing not more than 10 per cent alcohol, unless it was so highly medicated as to render the concoction unfit for drinking purposes, was followed by statements by Republican legislative leaders here that the whole subject should be left for the next Legislature.

The "wets," and especially officials of the State Federation of Labor, will oppose any such move, and threaten to appeal to the Governor to call an extra session if the Legislature adjourns without acting on the proposed light wine and beer bill.

The "wets" regard the proposed bill of the Anti-Saloon League as a card in their favor. Some of their leaders, including William H. First, counsel to the New York State Association of Brewers, were here to-day conferring with legislators. The "wets" say that patent medicine manufacturers who have hoped to reap fortunes in this state through the sale of "patent medicines," composed of water and sugar and pleasant-tasting herbs and plenty of alcohol, will join their ranks.

Wayne B. Wheeler, declared to be containing beverage as any compound containing more than 10 per cent of alcohol, repealing the local option law and abolishing the state Excise Department were introduced in the assembly to-day by Clarence P. Walsh, of Albany.

"Dry" Forces to Oppose Half Per Cent Beer
WASHINGTON, Feb. 5.—Beer containing as much as one-half of 1 per cent of alcohol will certainly not be tolerated under national prohibition, Wayne B. Wheeler, general counsel of the Anti-Saloon League, declared to-night, thus crushing the hopes expressed in New York City that 2 per cent beer would be held as non-intoxicating.

There is balm for those with "private stocks," however, in another statement by Mr. Wheeler, which is to the effect that there will be no searching of homes "unless such private residences become a place of public resort for drinking or for the sale or illegal distribution of liquor."

Discussing the 2 per cent beer proposal, Mr. Wheeler said: "The Federal government has adopted the standard that one-half of 1 per cent of alcohol subjects the seller to the payment of the liquor revenue tax on intoxicating liquor. There is no reason to believe that Congress will adopt a lower standard than the Federal government is now using."

Germany's Supreme Effort Last Year Told in Figures

"Rifle Strength" at Start of Spring Overcome in Midsummer and Quickly Crushed in the Autumn

WASHINGTON, Feb. 5.—The story of Germany's supreme effort for military victory in the spring of 1918, of American intervention on the Western front and of the ultimate crushing defeat of the enemy and the apparent annihilation of nearly one-half of his fighting force was graphically told in figures made public to-day by the War Department.

They dealt with the "rifle strength" of the Allied and German forces on the Western front in monthly periods from April 1 to November 1, and were prepared by the intelligence division of the general staff of the American army in France.

By rifle strength was meant the "number of men standing in the trench ready to go over with the bayonet."

When Germany struck her great blow last spring she had a million and a half men so classified, against an Allied total of a million and a quarter. By June 1 the Germans had reached their peak with 1,639,000 rifles, but despite the terrific pressure they were exerting against the Allied lines, American aid was overcoming the handicap and finally it made possible the counter blow delivered in July.

The Allied strength in June was 1,496,000. Shortly afterward the Allies reached a total of 1,547,000, composed of 778,000 French, 515,000 British and 254,000 Americans. America's contribution had risen from 65,000 in April to 254,000 in June. On July 1 Germany's power had begun to wane, and for the first time she was definitely inferior in rifle strength, with 1,412,000, compared to 1,559,000 for the Allies.

Up to September 1 the Allied strength continued to gain despite the desperate counter-attacks which were being driven forward all along the line. In mid-October the American strength had risen to an estimated force of 350,000. On September 1 the Allied line was at its greatest strength, with 1,882,000 rifles against Germany's 1,339,000.

While the Allies had shrunk in rifles to 1,485,000 on November 1, Germany's army was gone, as she faced that last hope with only 866,000 bayonets.

In a rough way, the American rifle strength has represented about 20 per cent of the total American force in France. This accounts for the fact that with a total of more than two million men in France on November 11 the rifle strength in October was estimated at around 350,000 men.

A similar situation was shown in staff reports as to the total Allied strength, reckoned as "rifle strength," which was continuously greater than that of the German army throughout the spring and summer last year.

A table prepared by General Pershing's staff showing the comparative strength of the opposing armies from April 1 to November 1, 1918, follows:

Unheralded Steamer Arrives Here With 1,762 U. S. Troops

Transport Duca d'Aosta, From Marseilles, Gets Only Faint Welcome, but Men Find Joy in Getting Home

Bands, welcoming committees and Red Cross workers, just preparing to set out to greet several returning transports early yesterday morning, when the great hulk of the Duca d'Aosta moved up the bay and landed its cargo of 1,762 American soldiers at Fifty-seventh Street.

It was the first ship to bring troops from Marseilles, which port the Duca d'Aosta left on January 20, stopping at Gibraltar on January 23.

The slender welcome extended by the few who got down to the pier in time to greet the incoming troops did not serve to depress them. On the contrary, they grinned their joy at the evident fact that they had stolen a march on those who had planned to meet as recent arrivals.

Of the 1,762 men aboard the ship, there were 122 casual officers, 84 of whom belonged to the air service, who could boast of taking an actual hand in the war. There were two complete field artillery outfits, whose members complained that Germany had collapsed just two weeks too soon. Had the war continued they would have reached the front.

Those who feel that they have a grievance against the Germans that no indemnity can ever bring to them, the 331st Field Artillery of the 86th Division, consisting of 60 officers and 1,282 men, under the command of Colonel William M. Lambdin, and a portion of the 339th Field Artillery of the 88th Division. Both left immediately for Camp Merritt, where they will remain until they are ordered West.

Colonel Lambdin's command is composed of draft men from Wisconsin and Illinois, who reached France in August. Three hundred members of the unit were sent forward as replacements, the remainder going into training. Practically the same experience awaited the men of the 339th, whose members came from Iowa and neighboring states.

Among the interesting figures pointed out by the returning soldiers was Lieutenant Martin F. Constantineau, a son of a Frenchman, who was in the 339th, Mass., in January of last year as a private. Rare bravery under fire resulted in his promotion and the conferring of him of the Distinguished Service Cross.

Constantineau was a corporal when, at Chateau Thierry, the platoon he commanded was ordered forward. He went forward with such speed that his little group penetrated the German line and was surrounded. One by one his men were shot down. The corporal continued to fire at the circle of faces about him, says the official record, until he was rescued by another detachment that came to his relief.

On the return trip the corporal was gassed. Notwithstanding his own weakened condition, he made three trips across No Man's Land, bringing an unconscious private back with him each time. After the third trip he collapsed and was himself dragged within the American lines.

The experience of Lieutenant Frank F. Hughes, of Atlanta, was another of the stories that the ship's officers brought to repeat. The youthful lieutenant was sailing over the German lines, 12,000 feet above the ground, when the chance shot of an anti-aircraft gun brought him down. He landed in No Man's Land, where he was greeted by a salvo from a group of machine guns. He rushed to a shell hole to escape the rain of bullets, where he was forced to remain, with no food or water, for three days under a constant fire of enemy shells.

On the morning of the fourth day he was rescued by a group of American soldiers. Lieutenant Clare Maxwell, who was star pitcher for the University of Chicago, was among the returning aviators.

\$13,000,000 Is Asked of City By Contractors

Damage Claims of Concerns on Subway Work Placed Before Controller Craig

Subway contractors have placed before Controller Craig claims for damages amounting to about \$13,000,000. The Controller made a compromise settlement with both the Intercontinental Construction Corporation and the Degnon Contracting Company, whose respective claims for damages were in each instance slightly over \$10,000,000, for about \$925,000 in each case.

Controller Craig was attacked by the Public Service Commission for making these settlements. Commissioner Travis H. Whitney, asserting that there had been an entirely unwarranted degree of privacy about the adjustments, and asserting that, in the judgment of the commission, the city had been a loser.

Other contractors are seeking an adjustment of their claims. It is understood that the Controller has told all of them he will not be hurried in the matter of examining the various items, and that every dollar of damages claimed will have to be proved before the city pays.

At the office of the Public Service Commission this halt in the settlement of the damage claims is attributed to the letter which Commissioner Travis H. Whitney sent to the Governor, blaming the Controller for not cooperating with the commission in the adjustment of the damage claims.

Some of the larger damage claims awaiting disposition by the Controller are: Booth & Flinn, Ltd. (six claims), \$1,461,831; The Degnon Contracting Company, \$1,190,676; A. I. Guidici & Son, \$1,129,395; T. H. Reynolds Construction Company, \$1,129,395; Degnon Contracting Company, \$1,129,395; United States Realty and Improvement Company, \$755,820; Bradley Contracting Company, \$88,914; William G. Cooper, \$62,920; Brook, Cabot & Robbins, \$243,885; Intercontinental Construction Corporation, \$1,038,151; E. E. Smith Contracting Company, \$767,235; Litchfield Construction Company, \$767,235.

Hays to Speak on Roosevelt
Will H. Hays, chairman of the Republican National Committee, will leave to-day for Indianapolis, where he will be the "Roosevelt memorial" speaker at the joint session of the Indiana legislative bodies. From there he will go to Pittsburgh for the Lincoln Day dinner of the American Club.

Wages for Prisoners Asked Sing Sing Warden Urges Visiting Reformers to Back Plea

OSSINING, N. Y., Feb. 5.—Fifty persons interested in prison reform, who made a pilgrimage to Sing Sing to-day, were asked by Warden William Moyer to help get wages for prisoners. The pilgrimage closed a three-day conference of members of the National Committee on Prisons and Prison Labor at the New York residence of Adolph Lewisohn.

"The prisoners are doing splendid work on the building of the new prison at Sing Sing," said Warden Moyer. "I believe the new prison at Sing Sing and Wingdale should be built by prison labor. I also believe the state should pay the prisoners what it would have to pay for contractors' labor. So I hope, I, warden I am going to fight to pay the prisoners their just dues for their labor. I want you visitors to urge the Assembly to provide for paying prisoners."

7 New Yorkers Win War Cross For Air Feats

Lieut. Percy Pyno, Jr., Beat Off 12 Enemy Planes in One of His Flights

Seven air service officers from New York are among the wearers of the Distinguished Service Cross, according to the official citations just released from Washington.

They are First Lieutenants Percy Rivington Pyno, Jr., of 680 Park Avenue, First Lieutenant Harold H. Remington Deb Vernam, of 66 Broadway; First Lieutenant Harold H. George of 210 East Tenth Street, First Lieutenant Byron T. Burt, Jr., of 108 West Seventy-third Street, Second Lieutenant Sigbert A. G. Norris, of 128 East Sixty-sixth Street, First Lieutenants Wren Edwin Eaton of Norwich, N. Y., and William W. Waring, deceased, of Franklin, N. Y.

Pyno, a son of Percy Rivington Pyno, a banker, fought a fight high above Dun-sur-Meuse which even the official phraseology of the commission could not do justice to. He was tremendously daring and splendid.

Detailed as an escort for three photographic planes, Lieutenant Pyno went over the lines the morning of October 23, 1918. A formation of five Fokkers dove on the four Yankee machines. Pyno attacked once, and his fire and that of the three observers in the photographic planes caused the enemy to withdraw.

The work of taking pictures went on. Again a formation—this time of seven Hun scouts—was seen approaching. They attacked Dun-sur-Meuse. Lieutenant Pyno dashed into the middle of the hostile formation, twisting, turning, half-rolling and shooting as fast as his guns would work. He broke up the formation. One Hun went crashing down to his death, and the remaining six limped back to their aerodrome.

Another remarkable feat is that performed by Lieutenant Vernam. On October 10, 1918 near Buzancy he successfully attacked two stationary balloons. The enemy plane was sighted, the enemy began to drop gas, and Lieutenant Vernam followed them down, despite the fact that several German scouts were above him. He fired and hit the balloons, and the enemy plane crashed to the ground. Home address, 680 Park Avenue, New York City.

First Lieutenant Remington Deb Vernam, pilot, 224 Aero Squadron, for extraordinary heroism in action near Buzancy, France, October 10, 1918. Successfully attacking two stationary balloons, which were dropping gas, despite the fact that several enemy planes were above him, descending to an altitude of less than ten meters where five miles within the enemy lines. His well directed fire caused both balloons to burst into flames. Address, 66 Broadway, New York City.

First Lieutenant Harold H. George, 139th Aero Squadron, for extraordinary heroism in action near Buzancy, France, October 27, 1918. Lieutenant George displayed courage in attacking a formation of four enemy Fokker planes, destroying two of them in a terrific dash and driving the other two back to their own territory. Home address, 210 East Tenth Street, New York City.

First Lieutenant Byron T. Burt, Jr., Aviation Section, observer, 11th Aero Squadron, for extraordinary heroism in action near Dun-sur-Meuse, France, September 25, 1918. Denying it impossible to catch their own formation, Lieutenant Burt, with Lieutenant William Waring, pilot, attacked German formations in a thirty-five minute fight which resulted in the destruction of one of the enemy planes and the observer of one of the wounded man had fallen to a position which had made the control of the machine difficult. Lieutenant Norris immediately motioned for his pilot to take a position between the enemy formation and the crippled companion, in order to protect it and continued to fly in this place until our lines were crossed and the enemy scouts driven off. Home address, Franklin, N. Y.

Second Lieutenant Sigbert A. G. Norris, Aviation Section, observer, 11th Aero Squadron, for extraordinary heroism in action near Dun-sur-Meuse, France, September 25, 1918. Denying it impossible to catch their own formation, Lieutenant Norris, with Lieutenant William Waring, pilot, attacked German formations in a thirty-five minute fight which resulted in the destruction of one of the enemy planes and the observer of one of the wounded man had fallen to a position which had made the control of the machine difficult. Lieutenant Waring immediately placed his machine between the enemy formation and the crippled companion in order to protect it and continued to fly in this place until our lines were crossed and the enemy scouts driven off. Home address, Franklin, N. Y.

First Lieutenant William W. Waring, deceased, Aviation Section, pilot, 11th Aero Squadron, for extraordinary heroism in action near Dun-sur-Meuse, France, September 25, 1918. Denying it impossible to catch their own formation, Lieutenant Waring, with Lieutenant Sigbert A. G. Norris, observer, attacked German formations in a thirty-five minute fight which resulted in the destruction of one of the enemy planes and the observer of one of the wounded man had fallen to a position which had made the control of the machine difficult. Lieutenant Waring immediately placed his machine between the enemy formation and the crippled companion in order to protect it and continued to fly in this place until our lines were crossed and the enemy scouts driven off. Home address, Franklin, N. Y.

First Lieutenant Warren Edwin Eaton, Aviation Section, 1034 Aero Squadron, for extraordinary heroism in action near Dun-sur-Meuse, France, October 10, 1918. With one other pilot Lieutenant Eaton engaged an enemy formation of eleven planes of Fokker type, though another hostile formation was directly above them. After a severe combat Lieutenant Eaton destroyed one of the enemy planes and, with his companion, drove down another out of control. Home address, Norwich, N. Y.

Assembly Told Hyman Switched On Realty Bill

His Views Now Coincide With Those of Hearst, R. E. Dowling Points Out

Also Tells of Warning

Editor Told Him Not to Have Seesberg Measure Presented in Legislature

ALBANY, Feb. 5.—Further testimony that William Randolph Hearst, whose chief political adviser, L. J. O'Reilly, holds a \$12,000 a year job under Mayor Hyman, dictates the policies of the New York City government was furnished to-day at the hearing before the Assembly Cities Committee.

The latest bit of testimony was offered by Robert E. Dowling in the presence of nearly a hundred real estate operators of New York City. All had come here to urge the passage of Assemblyman Henry A. Seesberg's bill limiting the tax on real estate to 2 per cent of the assessed value, and providing for a general income tax of one-quarter of 1 per cent.

Mayor Hyman was originally for the bill. Suddenly he reversed his position. His views now coincide with Mr. Hearst's.

"William Randolph Hearst, who is a member of the committee appointed by Mayor Hyman to devise a scheme for raising revenues, warned me against having the Seesberg bill presented to the Legislature," said Mr. Dowling. "But I ask you to pass the bill and send it down to the Mayor and let him decide whether he has the nerve to veto it." He continued amid cheers of the New York property owners.

Debt Limit Exceeded. He says Mr. Dowling told the legislators that the city had exceeded its constitutional debt limit. He said the funded debt was nearer 20 per cent of the assessed valuation of the city's realty than the 10 per cent which the constitution permits.

He said the violation of the state constitution had been made possible by "arbitrary and criminal boosting of real estate values in New York City for the purpose of taxation." This had been done under other administrations, he added.

He again aroused applause when he said he told Mayor Hyman, "some little time ago," that if any Mayor again tried to boost real estate assessments the realty men of the city would do their best to have him removed.

Mr. Dowling said that last week he was offered property assessed at \$1,150,000 for \$400,000. He mentioned this, he said, to illustrate how the arbitrary boosting of realty values by municipal tax collectors worked out.

The safes of financial institutions are filled with mortgages on New York City property of which they cannot collect, he said, and banks are renewing mortgages only at greatly reduced figures.

Next Trip Not Peaceful
"If the banks tried to collect," Mr. Dowling continued, "they would be compelled to foreclose. If you don't do something to correct the situation you will not see a peaceful delegation coming here to urge a square deal in realty taxation, but you will have a furious mob marching on the Capitol to make clamorous demand for justice."

Mr. Dowling said that unless the city's power of taxation was curtailed there would be no limit to its expenditures.

CADILLAC MAXIMS

The Cadillac can be nothing but the wonderful automobile it is because the parts are what they are



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Navy Frees Large Part of Personnel Who Served in War

WASHINGTON, Feb. 5.—Rear Admiral Victor Blue, Chief of the Bureau of Navigation, wrote Chairman Padgett, of the House Naval Committee to-day, that the Navy Department had directed to date the release of 40 per cent of the naval reserves, 40 per cent of the men who enlisted for the war only, and 20 per cent of the men who since the beginning of the war had enlisted for the regular four year period.

Admiral Blue said that in addition orders have been given in the last few days to discharge 20,000 men of the reserve and those enlisted for the war who are now performing shore duties and also all men of these classes at training camps and trade schools who desire their release.

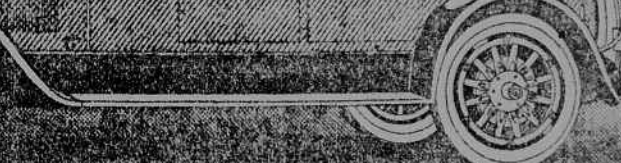
Commanding officers of ships and stations have been directed, Admiral Blue said, to give preference in making releases to men with dependent families and men desiring to complete their education.

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